

ILLINOIS POLLUTION CONTROL BOARD
June 17, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-08
)	(IEPA No. 392-03-AC)
ROGER RAY,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On June 4, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Roger Ray. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Roger Ray violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The Agency further alleges that Roger Ray violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) the open dumping of waste in a manner that resulted in open burning of waste; and (3) deposition of general construction or demolition debris or clean construction or demolition debris at the southeast corner of the intersection of County Road 750E and the railroad tracks in Block 3 of the J.W. Evans' Second Addition to Kirksville, Moultrie County.

As required, the Agency served the administrative citation on Roger Ray within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On September 20, 2003, Roger Ray timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Roger Ray alleges that he does not occupy the subject property, although he does own it, that other persons unknown to him must have committed the acts alleged to have violated the Act, and that he did not discover the acts committed until after he was served with a copy of the administrative citation. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated October 2, 2003.

On June 4, 2004, the Agency and Roger Ray filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). The Board accepts the stipulation and proposed settlement agreement and dismisses the petition for review. Roger Ray admits the alleged violation(s) and agrees to pay a civil penalty of \$3,000. To effect the parties' agreement, the Board also dismisses the Section 21(p)(7) violation and directs Roger Ray to pay a civil penalty in the amount of \$3,000 and diligently comply with and cease and desist from further violation of the Act.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, Roger Ray's petition for review and the alleged violation of Section 21(p)(7) of the Act are dismissed. The Board finds that Roger Ray violated Section 21(p)(1) and (p)(3) of the Act, and must pay a civil penalty of \$3,000 in ten monthly installments of \$250, commencing on July 1, 2004, and continuing on the first of each month thereafter until the penalty is paid.
3. Roger Ray must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and Roger Ray's social security number or federal employer identification number must be included on the certified check or money order.
4. Roger Ray must send the certified check or money order and the remittance form to the following person at the indicated address:

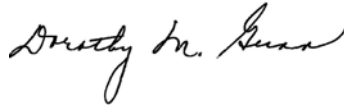
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 17, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board